

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STEVEN D. STEWART,

Plaintiff,

ORDER

10-cv-360-bbc

v.

Former Secretary MATTHEW FRANK,
RICH RAEMISCH, CYNTHIA THORPE,
JOHN and JANE DOES in Madison,
RICHARD SCHNEITER Wisconsin D.O.C.,
Warden PETER HUIBREGTSE, GARY BOUGHTON,
MONICA HORNER, CAPT. BROWN, CAPT. MASON,
CAPT. SHARPE, LT. HANFELD, LT. TOM,
C.O. JUERGEN, C.O. JOSETH HASSELL,
C.O. TRACY MARTIN, SGT. P. HENNEMAN,
C.O. L. JOHNSON, C.O. CAYA, SGT. THOMAS SCHMIDT,
C.O. MCLIMANS, C.O. DANE ESSER, C.O. SCULLION,
SGT. SICKINGER, C.O. NELSON, C.O. HINRICHES,
SGT, BLOYER, SGT. CARPENTER, C.O. COCKROFT,
C.O. HULCE, T. BELZ the father, C.O. BELZ the son,
C.O. BEARCE, C.O. A. JONES, C.O. C. FINNELL,
3RD Shift JONES, CHRISTINE BEERKIRSHER,
ELLEN K. RAY, KELLY TRUMM,
Social Worker A. JOHNSON, SGT. WALLACE,
SGT. WRIGHT, LT. GRONDIN, SGT. RICHTER,
C.O. FRIEDRICK, DR. BURTON COX,
Nurse CINDY SAWINSKI, Nurse MARY MILLER,
Nurse JOLINDA WATERMAN, Nurse MAURA,
Nurse VICKY, Nurse BONNIE STOBNER,
JANE and JOHN DOES, Nurse DEB CAMBELL,
Warden PHIL KINGSTON, Unit Manager BRUCE SCHLESLAG,

SGT. BILLY SCHLESLAG, SGT. MAYS, ANGELINA KROLL,
DR. CHARLIE LARSON, Health Manager BELINDA SCHRUBBE,
Nurse GAIL, Warden GREG GRAMS, CAPT. RADTKE,
C.O. BIDLEMAN, C.O. NEUMAIER, C.O. SWANSON,
C.O. KROCKER, C.O. ISSACSON, SGT. KOTTKE,
SGT. AL PULVER, LT. SCHOENBERG, JANET NICHOL,
DR. D. SULIENE, Nurse STEVE,
Warden ROBERT HUMPHREYS, Deputy PAUL KEMPE,
JAY ALDANA, ADAM GEGARE, NANCY PADGETT,
C.O. HERWIG, C.O. STINE, SGT. BARRY,
LT. K. SCHMIDT, DR. LUY, JANE and JOHN DOES,
DR. BRUCE HARMS, DR. BRADLEY WATERMAN,
DR. CRYLEN, DR. BENJAMIN R. BROOKS,
DR. JOSETH P. HEISE, District Attorney, LISA RINIKER,
Grant Co. Sheriff KEITH GOVIER, SGT. KOPP,
and Detective TRAVIS KLAAS,

Defendants.

In response to this court's July 1, 2010 order, plaintiff has submitted a certified copy of his six-month trust fund account statement so that I can determine whether he qualifies for indigent status and, if he does, calculate an initial partial payment of the \$350 fee for filing this case. In determining whether a prisoner litigant qualifies for indigent status this court applies the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner requesting leave to proceed in forma pauperis must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint.

In this case, 20% of the average monthly deposits made to plaintiff's account is \$.28, but 20% of the average monthly balance in his account is \$277.47. Because the greater of the two amounts is 20% of the average monthly balance, or \$277.47, that is the amount plaintiff will be assessed as an initial partial payment of the filing fee. If plaintiff does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$277.47 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes.

ORDER

IT IS ORDERED that plaintiff Steven D. Stewart is assessed \$277.47 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$277.47 on or before July 29, 2010. If, by July 29, 2010, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to plaintiff's filing his case at a

later date.

Entered this 8th day of July, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge